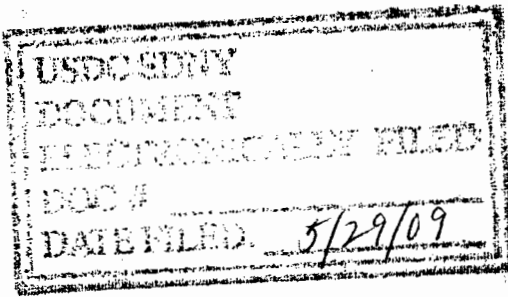
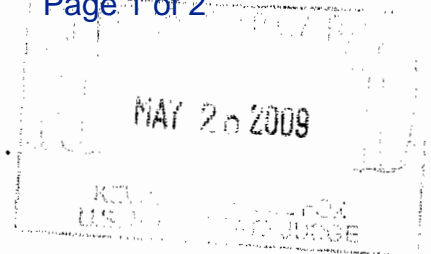


LAW OFFICE OF TEDD KESSLER, P.C.
COUNSELORS AT LAW
302 FIFTH AVENUE
8TH FLOOR
NEW YORK, NEW YORK 10001



CONNIE LIM,
OF COUNSEL

(212) 477-3200
Facsimile (212) 388-1714
e-mail:tkessler.att@prodigy.net

May 21, 2009

United States Magistrate Judge Kevin Nathaniel Fox
Daniel Patrick Moynihan United States District Courthouse
500 Pearl Street
Room 20A
New York, New York 10007

Re: Frank Frazetta v. Vanguard Productions and J. David Spurlock
Third-party action: v. Ellie Frazetta
08 CIV 6670 (RJH) (KNF)

Dear Hon. Magistrate Judge Fox:

This office represents the plaintiff and third-party defendant in the above-cited matter.

This purpose of this letter is to request that my clients be excused from personally attending the settlement conference scheduled for June 15, 2009.

Frank Frazetta is 81 years of age and has sustained more than one dozen strokes. The strokes have compromised Mr. Frazetta's physical and mental abilities. Mr. Frazetta makes no business decisions. His business manager and wife, Eleanor Frazetta, has and continues to make business decisions for Mr. Frazetta and holds power of attorney for him. Ms. Frazetta, is ill too, apparently terminal and undergoing experimental chemotherapy. The treatment regimen depletes her physical strength and compromises her immune system. Therefore, her functioning is limited, she must restrict her physical activities, avoid stress and remain as isolated from others as much as possible. The Frazettas reside in the State of Pennsylvania.

United States Magistrate Judge Fox

Re: Frank Frazetta v. Vanguard Productions and J. David Spurlock

May 21, 2009

page 2

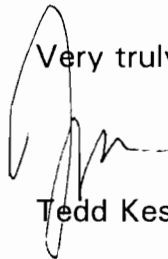
It would be a tremendous burden for the Frazettas to appear in person at the settlement conference. Eleanor Frazetta has empowered me with authorization regarding settlement and is likely to be available by telephone, dependent upon her treatment regimen and schedule.

Due to the serious medical conditions of Frank Frazetta and Eleanor Frazetta, it is respectfully requested that they be excused from physically appearing at the settlement conference. The seriousness of their medical conditions and the limitations placed upon them is a motivating factor in seeking the settlement conference.

This letter is being provided to defense counsel by regular mail.

Thank you for your attention to this matter.

Very truly yours,



Tedd Kessler

TK/hft

CC: Patrick Carroll, Esq.

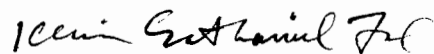
Leigh McMillan, Esq.

F:\tkdata\Fritz vanguard\LEjudgeFoxpersonalappearancemay21,2009.doc

5/29/09

Based on the above, Mr. Kessler's clients need not appear in person for the settlement conference. If possible, Eleanor Frazetta should participate in the settlement conference via telephone.

SO ORDERED;



KEVIN NATHANIEL FOX, U.S.M.J.